

AUG 20 2021

OFFICE OF THE CLERK

No. \_\_\_\_\_

**21-5764**

IN THE  
SUPREME COURT OF THE UNITED STATES

Hamid Michael Hejazi — PETITIONER  
(Your Name)

vs.

Roberto Rios, Eugene Police Department,  
Lane County, and City of Eugene — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Oregon Court of Appeals  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Hamid Michael Hejazi  
(Your Name)  
Inmate ID # 3925882  
Lane County Adult Corrections  
101 West 5th Avenue  
(Address)

Eugene, OR 97401-2695  
(City, State, Zip Code)

N/A

(Phone Number)

**ORIGINAL**

QUESTION(S) PRESENTED

1) Was the Appellate Commissioner justified in having denied Petitioner's application for appellate court filing fees—on the basis of "... given all the circumstances, including the number of civil appeals which have been filed by appellant only to be dismissed by the court for various reasons and lack of any colorable claim of error here... "?

2) Was the Appellate Commissioner justified in dismissing Petitioner's appeal on the jurisdictional grounds of need for service of the filed notice of appeal upon all adverse parties—when, as Petitioner made it clear in their filed notice of appeal, and as was true, based on the fact of Respondents not being adverse, they never having appeared in any lower circuit court proceedings (there being none held), nor in the case at all, never having been served or summoned (the lower circuit court case having been dismissed for want of prosecution, for lack of service, or appearance of Respondent)?  
upon

3) Was the Oregon Supreme Court justified in refusing to grant review—even though the Appellate Commissioner's dismissal was completely arbitrary and unjustified by the law?

### LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

### RELATED CASES

Hejazi v. Rios, Police, Lane, and Eugene,  
No. 20CV18183, Lane County Circuit Court (Oregon).  
Judgement entered October 13, 2020.

Hejazi v. Rios, Police, Lane, and Eugene,  
No. A174947, Oregon Court of Appeals.  
Judgement entered on December 17, 2020.

**TABLE OF CONTENTS**

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED .....	3
STATEMENT OF THE CASE .....	4
REASONS FOR GRANTING THE WRIT .....	6
CONCLUSION.....	8

**INDEX TO APPENDICES**

APPENDIX A    Decision of the State Court of Appeals

APPENDIX B    Decision of the State Supreme Court

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Graves v. Shippey, 215 Ore. 61b,  
300 P.2d 442, 1956 Ore. Lexis  
219 (Or. 1956)

5

STATUTES AND RULES

Oregon Revised Statutes (ORS)

19.270(2)(a)	3,5
19.240(2)(a)	3,5
19.250(1)(c)(d)	3,5
19.250(1)(f)	3,4
19.500	3,5
21.682	3,5

Oregon Revised Appellate Procedures (ORAP)

2.05(1b)(a)	3,5
2.05(7)	3,4

OTHER

Appellate law doctrine and principle:  
that an 'adverse party' is one adverse  
to an appellant (or appeal). 3,5

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix \_\_\_\_\_ to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the United States district court appears at Appendix \_\_\_\_\_ to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

The opinion of the Oregon Supreme Court court appears at Appendix B to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

**JURISDICTION**

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was \_\_\_\_\_.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was May 20, 2021.  
A copy of that decision appears at Appendix B.

☐ A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

**CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

Oregon Revised Statutes (ORS) 21.682 granting that the court "... may waive or defer all or part of the fees and court costs payable to the court by a party in a civil action".

ORS 19.250(1)(f) and Oregon Revised Appellate Procedures (ORAP) 2.05(7), both stating, "If the appellant has designated for inclusion in the record all of the testimony and the instructions given and requested, no statement of the points ['claims of error'] is necessary ['in the notice of appeal']".

Each of ORS 19.270(2)(a), 19.240(2)(a), 19.250(1)(c)(d), 19.500, and ORAP 2.05(10)(a), all stating, "... a notice [service] on all parties who have appeared in the action, suit, or proceeding [or "... who have appeared in the trial court"]" - setting forth the important and extensively held appellate law doctrine and principle: that an 'adverse party' is one adverse to an appellant (or appeal).



**STATEMENT OF THE CASE**

On November 10, 2020 Petitioner filed an appeal on a lower court decision, the lower court having erred in dismissing Petitioner's suit for lack of service, while having obstructed said service from taking place - by denying Petitioner's sheriff's service fee deferral or waiver application (essential to Petitioner given their incarceration, prose, and indigent status) on erroneous grounds meriting appeal.

On December 17, 2020 the Appellate Commissioner denied Petitioner's application for appellate court filing fee deferral or waiver, as well as determined, on their own, without justification, nor the facts to substantiate the determination, that Respondents were adverse parties - and so needed to have been served with Petitioner's notice of appeal - thus dismissing said appeal for lack of jurisdiction.

Petitioner sought a reconsideration and later Oregon Supreme Court review (both denied) on the grounds that: on the fee deferral or waiver (ORS 21.682), the Appellate Commissioner determined their denial far too broadly (to an inconceivable degree), with factual errors in so far as all of Petitioner's appeals are in some status of abeyance, preservation, or review, and there being no legal requirement to identify a colorable claim of error in a notice of appeal designating a full trial court record (ORS 19.250(1)(f) and 2.05(7)); on the service issue, Respondents were not adverse, nor could be,

never having appeared nor been served or summoned in the suit appealed, and that Petitioner had made this perfectly clear in their notice of appeal; citing ORS 19.270(2)(a), 19.240(2)(a), 19.250(1)(c)(d), 19.500, and ORAP 2.05(10)(a), including and supporting the appellate doctrine, that an adverse party is one adverse to an appellant (or appeal)\*.

\* See Graves v. Shippy, 215 Ore. 616, 300 P.2d 442, 1956 Ore. Lexis 219 (Or. 1956); holding that only adverse parties need be served.

### REASONS FOR GRANTING THE PETITION

Appellate Commissioner's denial of Petitioner's application for appellate fee deferral or waiver cannot be justified in that the reasons suffer from being (a) unfathomably broad, encompassing 'all the circumstances'; (b) being factually invalid, being based upon an erroneous contention that Petitioner's appeals were actually dismissed; whereas all of them were in some state of ongoing review, and (c) being legally unjustified, wherefore claims of colorable error need only have been set forth if less than the entire lower court record had been designated, and that was not the case; yet in all ways the Petitioner's application was justified and necessary.

Also, in reality Petitioner had made it explicitly clear, in their notice of appeal, that (a) Respondents were not adverse, (b) having never appeared in, nor been served or summoned in the lower circuit court case underlying Petitioner's appeal, nor otherwise in any lower circuit court proceeding (of which there were none)—the case having been dismissed for want of prosecution, for lack of service on the Respondents (the circuit court erring in refusing sheriff's service fee deferral or waiver—prompting Petitioner's appeal)—Petitioner expressing the same in their reconsideration and subsequent petition for review; citing the relevant and authoritative laws and appellate doctrine.

Thus <sup>the</sup> Appellate Commissioner was plainly in error; an issue  
6.

of arbitrary, capricious, and anarchistic jurisprudence and judicial decision making\*; wherefore the Oregonian appellate courts distorted and misapplied the law; wherein a good faith meritorious appeal is being disallowed on completely erroneous constructions of what was true or needed to have happened - of the broadest social interest and impact; lest the rule of law be abandoned.

This court should grant writ, so to affirm the importance of fair and due process in proceedings - to disallow appellate courts from boldly and wrongly making up reasons for determining an appeal to be improperly filed - all for no good reason whatsoever; Oregon herein making a mockery of justice.

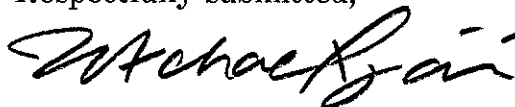
---

\* Especially demonstrated by the fact that Oregon's appellate courts allow multiple appeals where no non-adverse parties are served with any notice of appeal - contrary to the demands made in the case at issue.

**CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Hamid Michael Hejazi

Date: August 18, 2021